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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/822,321	04/12/2004	Jeffrey M. Dils	10710/281 (PTG-0755-PUS2)	2618
757	7590	11/17/2005	EXAMINER	
BRINKS HOFER GILSON & LIONE P.O. BOX 10395 CHICAGO, IL 60610			HOWELL, DANIEL W	
			ART UNIT	PAPER NUMBER
			3722	

DATE MAILED: 11/17/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/822,321	DILS ET AL.	
	Examiner Daniel W. Howell	Art Unit 3722	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on \_\_\_\_.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_ is/are allowed.
- 6) Claim(s) 1,2,4,5,7-11,13-16,18-22,24,26 and 27 is/are rejected.
- 7) Claim(s) 3,6,12,17,23 and 25 is/are objected to.
- 8) Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date: ____ .   |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>4-12-04</u> | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|  | 6) <input type="checkbox"/> Other: ____ .                                   |

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1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.  
(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 15, 26, and 27 are rejected under 35 U.S.C. 102(e) as being anticipated by Luebke (6,926,473). Figures 1 and 4 show a power tool having a motor which drives a chuck, a substantially perpendicular handle having an actuator switch, a battery which extends perpendicular to the handle axis, and a removable stud finder 12 mounted on the housing.
3. Claims 1, 4, 7, 8, 16, 18, 20, and 22 are rejected under 35 U.S.C. 102(b) as being anticipated by WO 98/52723. Figures 1-3 show a power drill having the usual housing and handle, there being an electric cord at the end of the handle (figure 4a). Attachment 12 is secured to the housing, and as stated at page 5, lines 3+, the plate 2 includes spirit levels and an object sensor. The plate 2 has a substantially flat bottom.

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 9, 11, 14, 15, 21, 26, and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over WO '723 in view of Luebke '473. There will be times when the device of the

WO '723 reference will be needed in areas where a power outlet is not nearby. Luebke solves this problem by powering the drill with a DC battery. It is considered to have been obvious to have provided the WO device with such a DC battery in order to use the drill in places where power outlets are not handy.

6. Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over WO '723 in view of Lung et al ((6264408). As discussed at column 1, lines 17-30, a pneumatic drill is generally longer lasting than an electric drill. It is considered to have been obvious to have replaced the electric motor of the WO device with the pneumatic drive of Lung et al in order to extend the life of the device.

7. Claims 1, 2, 4, 5, 7-11, 13-14, 16, 18, 20-22, and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Luebke '473 in view of WO 723. Figure 4 of Luebke shows T-shaped projections 44 which engage in slots 46 to secure the stud finder. The top of the projection is a flange. Luebke lacks a level to indicate the orientation of the drill. WO '723 shows a stud finder 2 having levels 6 for indicating the orientation of the drill. In view of this teaching of WO '723, it is considered to have been obvious to have equipped the stud finder of Luebke with levels in order to indicate the orientation of the drill. Regarding claim 8, it is considered to have been obvious to have replaced the battery of Luebke with the electric cord power of WO '723 in order to eliminate the problem of the battery completely discharging.

8. Claims 3, 6, 12, 17, 23, and 25 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

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9. The examiner has not been able to obtain the parent application. It is suspected that the documents which have not been considered are located in that parent application. Applicant is requested to submit copies of these documents, and the examiner will then consider them.

10. The disclosure is objected to because of the following informalities: Page 1 of the specification should set forth the filing dates and application numbers of the prior applications.

Appropriate correction is required.

11. Any inquiry concerning the content of this communication from the examiner should be directed to Daniel Howell, whose telephone number is 571-272-4478. The examiner's office hours are typically about 10 am until 6:30 pm, Monday through Friday. The examiner's supervisor, Boyer Ashley, may be reached at 571-272-4502.

In order to reduce pendency and avoid potential delays, Group 3720 is encouraging FAXing of responses to Office actions directly into the Group at FAX number to 571-273-8300. This practice may be used for filing papers not requiring a fee. It may also be used for filing papers which require a fee by applicants who authorize charges to a USPTO deposit account. Please identify Examiner Daniel Howell of Art Unit 3722 at the top of your cover sheet.



Daniel W. Howell  
Primary Examiner  
Art Unit 3722